

103D CONGRESS
1ST SESSION

H. R. 1755

To enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections.

IN THE HOUSE OF REPRESENTATIVES

APRIL 21, 1993

Mr. PENNY (for himself, Mr. HASTINGS, and Mr. GUNDERSON) introduced the following bill; which was referred to the Committee on House Administration

A BILL

To enforce the guarantees of the first, fourteenth, and fifteenth amendments to the Constitution of the United States by prohibiting certain devices used to deny the right to participate in certain elections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Elections Act of
5 1993”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress makes the following
8 findings:

1 (1) Voting participation in the United States is
2 lower than in any other advanced industrialized
3 democracy.

4 (2) The rights of eligible citizens to seek elec-
5 tion to office, vote for candidates of their choice and
6 associate for the purpose of taking part in elections,
7 including the right to create and develop new politi-
8 cal parties, are fundamental in a democracy. The
9 rights of citizens to participate in the election proc-
10 ess, provided in and derived from the first and four-
11 teenth amendments to the Constitution, having con-
12 sistently been promoted and protected by the Fed-
13 eral Government. These rights include the right to
14 cast an effective vote and the right to associate for
15 the advancement of political beliefs, which includes
16 the “constitutional right . . . to create and develop
17 new political parties.” *Norman v. Reed*, 502
18 U.S._____, 112 S.Ct. 699 (1992). It is the duty of
19 the Federal Government to see that these rights are
20 not impaired in elections for Federal office.

21 (3) Certain restrictions on access to the ballot
22 impair the ability of citizens to exercise these rights
23 and have a direct and damaging effect on citizens’
24 participation in the electoral process.

1 (4) Many States unduly restrict access to the
2 ballot by nonmajor party candidates and nonmajor
3 political parties by means of such devices as exces-
4 sive petition signature requirements, insufficient pe-
5 titioning periods, unconstitutionally early petition fil-
6 ing deadlines, petition signature distribution criteria,
7 discriminatory petition signature fees, and limita-
8 tions on eligibility to circulate and sign petitions.

9 (5) Many States require political parties to poll
10 an unduly high number of votes or to register an un-
11 duly high number of voters as a precondition for re-
12 maining on the ballot.

13 (6) In 1983, the Supreme Court ruled unconsti-
14 tutional an Ohio law requiring a nonmajor party
15 candidate for President to qualify for the general
16 election ballot earlier than major party candidates.
17 This Supreme Court decision, *Anderson v.*
18 *Celebrezze*, 460 U.S. 780 (1983) has been followed
19 by many lower courts in challenges by nonmajor par-
20 ties and candidates to early petition filing deadlines.
21 See, e.g., *Stoddard v. Quinn*, 593 F. Supp. 300
22 (D.Me. 1984); *Cripps v. Seneca County Board of*
23 *Elections*, 629 F. Supp. 1335 (N.D. Oh. 1985); *Lib-*
24 *ertarian Party of Nevada v. Swackhamer*, 638 F.
25 Supp. 565 (D. Nev. 1986); *Cromer v. State of South*

1 Carolina, 917 F.2d 819 (4th Cir. 1990); New Alli-
2 ance Party of Alabama v. Hand, 933 F. 2d 1568
3 (11th Cir. 1991).

4 (7) In 1992, 26 States still required nonmajor
5 party candidates for President to qualify for the bal-
6 lot before the second major party national conven-
7 tion (California, Colorado, Connecticut, Delaware,
8 Florida, Georgia, Illinois, Indiana, Kansas, Maine,
9 Maryland, Michigan, Missouri, Montana, North
10 Carolina, Nevada, New Hampshire, New Jersey,
11 Oklahoma, Pennsylvania, South Carolina, South Da-
12 kota, Texas, Washington, West Virginia). Nine of
13 these States required nonmajor party candidates to
14 qualify before the first major party national conven-
15 tion (Florida, Georgia, Indiana, Maine, Michigan,
16 Nevada, North Carolina, Oklahoma, Texas).

17 (8) In 1992, nonmajor party candidates for
18 President had to obtain 806,401 petition signatures
19 to be listed on the ballots of all 50 States and the
20 District of Columbia—32 times more signatures
21 than the 25,500 required of Democratic Party can-
22 didates and 15 times more signatures than the
23 54,250 required of Republican Party candidates. To
24 be listed on the ballot in all 50 States and the Dis-
25 trict of Columbia with a party label, nonmajor party

1 candidates for President had to obtain approxi-
2 mately 649,092 petition signatures and 79,136 reg-
3 istrants. In 1992, 32 of the 41 States that held
4 Presidential primaries required no signatures of
5 major party candidates for President (Arkansas,
6 California, Colorado, Connecticut, Florida, Georgia,
7 Idaho, Kansas, Kentucky, Louisiana, Maryland,
8 Massachusetts, Michigan, Minnesota, Mississippi,
9 Missouri, Nebraska, New Hampshire, New Mexico,
10 North Carolina, North Dakota, Oklahoma, Oregon,
11 Rhode Island, South Carolina, South Dakota, Ten-
12 nessee, Texas, Virginia, Washington, West Virginia,
13 Wisconsin). Only two States required no signatures
14 of nonmajor party candidates for President (Arkan-
15 sas and Louisiana; Louisiana, however, requires a
16 \$500 filing fee).

17 (9) The number of petition signatures required
18 by the States to list a major party candidate for
19 Senate on the ballot in 1992 ranged from zero to
20 15,111. The number of petition signatures required
21 to list a nonmajor party candidate for Senate ranged
22 from zero to 180,935. Thirty-one States required no
23 signatures of major party candidates for Senate
24 (Alabama, Alaska, Arkansas, Colorado, Connecticut,
25 Delaware, Florida, Georgia, Hawaii, Kansas, Ken-

1 tucky, Louisiana, Maryland, Massachusetts, Min-
2 nesota, Mississippi, Missouri, Montana, Nebraska,
3 Nevada, New Hampshire, North Carolina, North
4 Dakota, Oklahoma, Oregon, South Carolina, Texas,
5 Utah, Washington, West Virginia, Wyoming). Only
6 one State required no signatures of nonmajor party
7 candidates for Senate, provided they were willing to
8 be listed on the ballot without a party label (Louisiana,
9 although a \$600 filing fee is required, and to
10 run with a party label, a candidate must register
11 106,146 voters into his or her party).

12 (10) The number of petition signatures required
13 by the States to list a major party candidate for
14 Congress on the ballot in 1992 ranged from zero to
15 2,000. The number of petition signatures required to
16 list a nonmajor party candidate for Congress ranged
17 from zero to 12,252. Thirty-one States required no
18 signatures of major party candidates for Congress
19 (Alabama, Alaska, Arkansas, Colorado, Connecticut,
20 Delaware, Florida, Georgia, Hawaii, Kansas, Ken-
21 tucky, Louisiana, Maryland, Minnesota, Mississippi,
22 Missouri, Montana, Nebraska, Nevada, New Hamp-
23 shire, North Carolina, North Dakota, Oklahoma, Or-
24 egon, South Carolina, Texas, Utah, Washington,
25 West Virginia, Wyoming). Only one State required

1 no signatures of nonmajor party candidates for Con-
2 gress, provided they were willing to be listed on the
3 ballot without a party label (Louisiana, although a
4 \$600 filing fee is required).

5 (11) Eight States required additional signatures
6 to list a nonmajor party candidate for President on
7 the ballot with a party label (Alabama, Arizona,
8 Idaho, Kansas, Nebraska, North Dakota, Ohio, Ten-
9 nessee). Thirteen States required additional signa-
10 tures to list a nonmajor party candidate for Senate
11 or Congress on the ballot with a party label (Ala-
12 bama, Arizona, Arkansas, California, Idaho, Hawaii,
13 Kansas, Louisiana, North Dakota, Nebraska, Ohio,
14 Oregon, Tennessee). Two of these States (Ohio and
15 Tennessee, respectively) required 5,000 signatures
16 and 25 signatures, respectively, to list a nonmajor
17 party candidate for President or Senate on the ballot
18 in 1992, but required 34,777 signatures and 19,759
19 signatures, respectively, to list the candidate on the
20 ballot with her or his party label. One State (Califor-
21 nia) required a nonmajor party to have 78,992 reg-
22 istrants in order to have its candidate for President
23 listed on the ballot with a party label.

24 (12) In 1992 one State (Arizona) required
25 nonmajor party candidates for President or Senate

1 to obtain 10,555 signatures in 10 days, but allowed
2 major party candidates for Senate 45 days to obtain
3 approximately half that number of signatures, and
4 required no signatures of major party candidates for
5 President. Another State (California) required
6 nonmajor party candidates for President or Senate
7 to obtain 134,781 signatures in 105 days, but re-
8 quired major party candidates for Senate to obtain
9 only 65 signatures in 105 days, and required no sig-
10 natures of major party candidates for President. An-
11 other State (Texas) required nonmajor party can-
12 didates for President or Senate to obtain 38,900 sig-
13 natures in 75 days, and required no signatures of
14 major party candidates for President or Senate.

15 (13) Two States required all nonmajor party
16 candidates to pay fees of ten and five cents per peti-
17 tion signature, while requiring no fees or signatures
18 of major party candidates (Florida and North Caro-
19 lina, respectively).

20 (14) Seven States require nonmajor party can-
21 didates for President or Senate to collect a certain
22 number or percentage of their petition signatures in
23 each congressional district or in a specified number
24 of congressional districts (Michigan, Missouri, Ne-
25 braska, New Hampshire, New York, North Carolina,

1 Virginia). Only three of these States impose a like
2 requirement on major party candidates for President
3 or Senate (Michigan, New York, Virginia).

4 (15) Twenty States restrict the circulation of
5 petitions for nonmajor party candidates to residents
6 of those States (California, Colorado, Connecticut,
7 District of Columbia, Idaho, Illinois, Kansas, Michi-
8 gan, Missouri, Nebraska, Nevada, New Jersey, New
9 York, Ohio, Pennsylvania, South Dakota, Texas,
10 Virginia, West Virginia, Wisconsin). Three States
11 restrict the circulation of petitions for nonmajor
12 party candidates to the county or congressional dis-
13 trict where the circulator lives (Kansas, Nebraska,
14 Virginia).

15 (16) Four States prohibit people who voted in
16 a primary election from signing petitions for
17 nonmajor party candidates (Nebraska, New York,
18 Texas, West Virginia). Twelve States restrict the
19 signing of petitions to people who indicate intent to
20 support or vote for the candidate or party (Califor-
21 nia, Delaware, Hawaii, Illinois, Indiana, Maryland,
22 New Jersey, New York, North Carolina, Ohio, Or-
23 egon, Utah). Five of these 12 States require no peti-
24 tions of major party candidates (Delaware, Mary-
25 land, North Carolina, Oregon, Utah), and only one

1 of the six remaining States restricts the signing of
2 petitions for major party candidates to people who
3 indicate intent to support or vote for the candidate
4 or party (New Jersey).

5 (17) Restrictions on the ability of citizens to ex-
6 ercise the rights identified in this subsection have
7 disproportionately impaired participation in the elec-
8 toral process by various groups, including racial
9 minorities.

10 (18) The establishment of fair and uniform na-
11 tional standards for access to the ballot in elections
12 for Federal office would remove barriers to the par-
13 ticipation of citizens in the electoral process and
14 thereby facilitate such participation and maximize
15 the rights identified in this subsection.

16 (19) The Congress has authority, under the
17 provisions of the Constitution of the United States
18 in sections 4 and 8 of article I, section 1 of article
19 II, article VI, the thirteenth, fourteenth, and fif-
20 teenth amendments, and other provisions of the
21 Constitution of the United States, to protect and
22 promote the exercise of the rights identified in this
23 subsection.

24 (b) PURPOSES.—The purposes of this Act are—

1 (1) to establish fair and uniform standards reg-
2 ulating access to the ballot by eligible citizens who
3 desire to seek election to Federal office and political
4 parties, bodies, and groups which desire to take part
5 in elections for Federal office; and

6 (2) to maximize the participation of eligible citi-
7 zens in elections for Federal office.

8 **SEC. 3. BALLOT ACCESS RIGHTS.**

9 (a) An individual shall have the right to be placed
10 as a candidate on, or to have such individual's political
11 party, body, or group affiliation in connection with such
12 candidacy placed on, a ballot or similar voting materials
13 to be used in a Federal election, if such individual presents
14 a petition stating in substance that the signatories desire
15 such individual's name and political party, body or group
16 affiliation, if any, to be placed on the ballot or other simi-
17 lar voting materials to be used in the Federal election with
18 respect to which such rights are to be exercised, and

19 (1) with respect to a Federal election for the of-
20 fice of President, Vice President, or Senator, such
21 petition has a number of signatures of persons quali-
22 fied to vote for such office equal to one-tenth of one
23 percent of the number of persons who voted in the
24 most recent previous Federal election for such office

1 in the State, or 1,000 signatures, whichever is
2 greater;

3 (2) with respect to a Federal election for the of-
4 fice of Representative in, or Delegate or Resident
5 Commissioner to, the Congress, such petition has a
6 number of signatures of persons qualified to vote for
7 such office equal to one-half of one percent of the
8 number of persons who voted in the most recent pre-
9 vious Federal election for such office, or, if there
10 was no previous Federal election for such office,
11 1,000 signatures;

12 (3) with respect to a Federal election the date
13 of which was fixed 345 or more days in advance,
14 such petition was circulated during a period begin-
15 ning on the 345th day and ending on the 75th day
16 before the date of the election;

17 (4) with respect to a Federal election the date
18 of which was fixed less than 345 days in advance,
19 such petition was circulated during a period estab-
20 lished by the State holding the election, or, if no
21 such period was established, during a period begin-
22 ning on the day after the date the election was
23 scheduled and ending on the tenth day before the
24 date of the election, provided, however, that the
25 number of signatures required under paragraph (1)

1 or (2) shall be reduced by $\frac{1}{270}$ th for each day less
2 than 270 in such period.

3 (b) An individual shall have the right to be placed
4 as a candidate on, or to have such individual's political
5 party, body, or group affiliation in connection with such
6 candidacy placed on, a ballot or similar voting materials
7 to be used in a Federal election, without having to satisfy
8 any requirement relating to a petition under subsection
9 (a), if that or another individual, as a candidate of that
10 political party, body, or group, received one percent of the
11 votes cast in the most recent general Federal election for
12 President or Senator in that State.

13 **SEC. 4. RULEMAKING.**

14 The Attorney General shall make rules to carry out
15 this Act.

16 **SEC. 5. GENERAL DEFINITIONS.**

17 As used in this Act—

18 (1) the term “Federal election” means a gen-
19 eral or special election for the office of—

20 (A) President or Vice President;

21 (B) Senator; or

22 (C) Representative in, or Delegate or Resi-
23 dent Commissioner to, the Congress;

24 (2) the term “State” means a State of the
25 United States, the District of Columbia, the Com-

1 monwealth of Puerto Rico, and any other territory
2 or possession of the United States; and

3 (3) the term “individual” means an individual
4 who has the qualifications required by law of a per-
5 son who holds the office for which such individual
6 seeks to be a candidate.

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